

# McKinney-Vento Homeless Act

Nebraska Department of Education

July 2014





# McKinney-Vento Act

- July 22, 1987-Original McKinney Act signed into law by President Reagan.
- Act amended in '88, '90, '92 and '94.
- Oct. 30, 2000-Renamed McKinney-Vento Homeless Assistance Act by President Clinton.
- 2001-Reauthorized by Title 10-Part C of ESEA, as amended...*Subtitle VII-B focuses on the education of children and youth experiencing homelessness.*



# National Data

## **Total Enrollment - 2012-13 School Year**

1,258,182 children and youth experiencing homelessness

## **Enrolled by Primary Nighttime Residence**

75% -- Doubled-up

15% -- Shelters

6% -- Hotels/Motels

4% -- Unsheltered





# Nebraska Data

2012-13 Data

46 Nebraska districts reported homeless youth for a total of 3,278 reported homeless youth.

32 Nebraska districts reported unaccompanied homeless youth with a total of 645.





# Causes of Family Homelessness

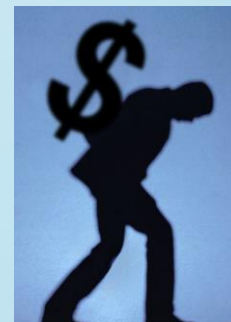
- A lack of affordable housing
- Unemployment or underemployment
- Physical or mental health challenges
- The challenges of single parenting
- Domestic violence





# Causes of Youth Homelessness

- Unaccompanied homeless youth:  
Experience homelessness while not in the physical custody of a parent or guardian.
- Sexual, physical, or emotional abuse
- Parental mental illness, incarceration, or drug use
- Conflict related to blended family issues, the student's sexual orientation, pregnancy, or drug use
- Financial strain





# Educational Barriers Faced by Homeless Students

- Lack of paperwork for school enrollment
- High residential and school mobility
- Poverty-related challenges
  - School supplies
  - Inconsistent bathing or laundry facilities
  - Inadequate nutrition
  - Limited health-care opportunities
- Inadequate study space
- Lack of a caring and involved parent or guardian (unaccompanied homeless youth)
  - May be working to support themselves





# Working Definitions

## Fixed, Regular, and Adequate

- **Fixed:** Stationary, permanent, and not subject to change
- **Regular:** Used on a predictable, routine, or consistent basis (e.g. nightly); consider the relative permanence of the living arrangement
- **Adequate:** Sufficient for meeting both the physical and psychological needs typically met in home environments

**Can the student go the SAME PLACE (fixed) EVERY NIGHT (REGULAR) to sleep in a SAFE AND SUFFICIENT SPACE (adequate)?**





# Identifying Homeless Students

- Individuals who lack a fixed, regular, and adequate nighttime residence and includes children & youth who:
  - Are sharing the housing of other persons due to **loss of housing, economic hardship or a similar reason** commonly referred to as “doubled-up”
  - Are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations
  - Are living in emergency or transitional shelters
  - Are awaiting foster care placement
  - Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings
  - Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
  - Migratory children living in the above situations
  - Unaccompanied youth living in the above situations



# Shared Housing

- Legislative wording: “sharing the housing of other persons **due to loss of housing, economic hardship, or a similar reason**”
- Considerations:
  - Why did the parties move in together? Due to a crisis or by mutual choice as a plan for mutual benefit?
  - How permanent is the living arrangement intended to be?
  - Where would the party in crisis live if not sharing housing?
  - Is the living arrangement fixed, regular, and adequate?



# Important Eligibility Considerations

- Reference legislative wording
- Make determinations on a case-by-case basis based on the circumstances of each child
- Understand that some cases will be clear-cut; others will require further inquiry and a more nuanced analysis
- Use fixed, regular, and adequate as guiding principles
- Remember that the list of living arrangements included in the law describes common homeless situations, but is not exhaustive



# Rights for All Homeless Students

- Enroll in school immediately and attend classes while the school gathers needed documents; (*enrollment includes attending classes and participating fully in school activities*)  
(42 U.S.C. 11434a)
- Enroll in the local school or continue attending the school of origin if feasible
- Transportation to/from the school of origin, if requested
- Receive comparable services, including transportation



# Rights for All Homeless Students

- Access to educational programs for which they are eligible (Title I-A, IDEA, ELL, migrant education, vocational/technical education, gifted and talented, etc.)
- Free school meals (USDA Child Nutrition Act)
- Categorically eligible for Head Start services, and should be prioritized for enrollment (Head Start Act)
- UHY are considered independent students for purposes of receiving federal financial aid for college (College Cost Reduction and Access Act)



# Local Liaison Responsibilities

- Identifying homeless children and youth
- Ensuring that homeless students can enroll immediately and participate fully in school
- Informing parents, guardians, and youth of educational rights
- Ensuring the public posting of the educational rights throughout the school district and community





# Local Liaison Responsibilities

- Ensuring that disputes are resolved promptly
- Supporting unaccompanied homeless youth in school selection and dispute resolution
- Collaborating with other district programs and community agencies
- Linking homeless students with other services, as needed









# Enrollment Form Idea

## **Student Residency**

*Identifying students who may qualify to receive additional services.*

- Where does the student stay at night?
  - ☐ In a home you own or rent
  - ☐ Temporarily with another family in a house, mobile home or apartment
  - ☐ In a hotel or motel
  - ☐ Other (*please specify*): \_\_\_\_\_  
\_\_\_\_\_



## Verifying McKinney-Vento Eligibility

Student Name: \_\_\_\_\_ School: \_\_\_\_\_ Date: \_\_\_\_\_

### 1. Presently, where do you and/or your family sleep at night?

- ☐ in a shelter or transitional housing
- ☐ in a car, park, campground, public place, abandoned building, or other similar location
- ☐ in a motel/hotel due to loss of housing, economic hardship or similar reason
- ☐ in housing or any vehicle (including camper) without running water, electricity, or heat
- ☐ with another family in their home, apartment, etc., due to loss of housing, economic hardship or similar reason; doubled-up
- ☐ other arrangement that is not fixed, regular, and/or adequate and is not described by the Choices listed above (use questions below to determine if situation qualifies as homeless)

#### Fixed – stationary, permanent, and not subject to change:

- Is this a permanent arrangement or just temporary?
- Are you looking for another place to live?
- Do you plan to move out soon?
- Why are you staying in your current place?
- Where were you living right before this place? Why did you leave?
- Where would you go if you couldn't stay where you are?
- Are you staying with friends/relatives just for a little while?
- Did you and your friends/relatives decide to move in together and share a home and expenses for the long term? Or is this a temporary situation for you?
- Could your friends/relatives ask you to leave if they wanted to?
- Are you all sharing the home equally, or are you more like guests in the home?

#### Regular – used on a regular/nightly basis:

- Do you stay in the same place every night?
- Do you have a key to the place where you are living?
- Do you move around a lot?
- How long have you been at that place? How long do you plan to stay?
- How long did you live in your last place?

#### Adequate – sufficient for meeting both the physical and psychological needs typically met in the home environment:

- How many people are living in the home? How many bedrooms/bathrooms does it have?
- Are you and your children sharing a room? How many people are staying in one room?
- Are you and your children sleeping in a bedroom, or a public area, like a dining room?
- Does the home/building have heat/electricity/running water?
- What condition is the place in? Does it keep out rain and wind? Is it safe? Is it warm and dry?
- Do the windows have glass panes?
- Can you come and go as you please?

### 2. Student lives with at least one (1) parent or legal guardian? ☐ YES ☐ NO

If NO, student is an unaccompanied youth and student lives: ☐ alone or with friends and no adults; or ☐ with an adult friend or relative that is not the parent or legal guardian

- ☐ YES – student/family is homeless (complete *Identifying Services* form)
- ☐ NO – student/family does NOT meet the definition of homeless





## SAMPLE WRITTEN NOTIFICATION OF ENROLLMENT/PLACEMENT DECISION

WRITTEN NOTIFICATION OF  
ENROLLMENT/PLACEMENT DECISION FOR STUDENT

Child/Youth's Name: \_\_\_\_\_

.....  
The following written notification is provided to:

Parent/Guardian Name: \_\_\_\_\_

Unaccompanied Youth Name: \_\_\_\_\_

After reviewing the request to enroll the child/youth, the determinations are as follows:

**McKinney-Vento Act Eligibility:**

\_\_\_\_\_ Child/youth qualifies under the McKinney-Vento Act.

\_\_\_\_\_ Child/youth does not qualify under the McKinney-Vento Act. Following is the explanation of this decision.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**Placement of McKinney-Vento Eligible child/youth:**

Based on the best interest of the child/youth the placement will be at:

\_\_\_\_\_

Explanation of placement (if placement is not in school of origin or the school of choice of parent/guardian or unaccompanied youth):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Administrator Signature: \_\_\_\_\_

Date Written Notification form was given to parent/guardian or unaccompanied youth: \_\_\_\_\_

Parent/Guardian or Unaccompanied Youth Signature: \_\_\_\_\_

**NOTE:** If you are not satisfied with the determinations, you have the right to use the McKinney-Vento dispute resolution process as outlined in the District Homeless Policy. Contact the District Homeless Liaison and complete the Dispute Resolution Form.



**District makes a decision on homeless status and school placement.**



**Whoops! We don't agree.  
May choose to move on to the district dispute resolution process.**



**Still no agreement?  
There is the right to appeal to the NDE Commissioner.**



## SAMPLE MCKINNEY-VENTO DISPUTE FORM

District Liaison Name and Contact Information: \_\_\_\_\_

NE Department of Education Liaison may be reached at 402-471-2481.

## McKinney-Vento Dispute Form

**NOTE: This form would be used when a dispute arises over school enrollment/placement. LEA liaison could help complete the form.**

Child/Youth's Name: \_\_\_\_\_

Person completing form and relationship to student: \_\_\_\_\_

Contact information: (Address/phone/e-mail) \_\_\_\_\_

I am disputing the following decision because (give detailed information): \_\_\_\_\_

I request that the following action be taken on this dispute: \_\_\_\_\_

Parent/guardian or unaccompanied homeless youth's signature: \_\_\_\_\_

Date: \_\_\_\_\_

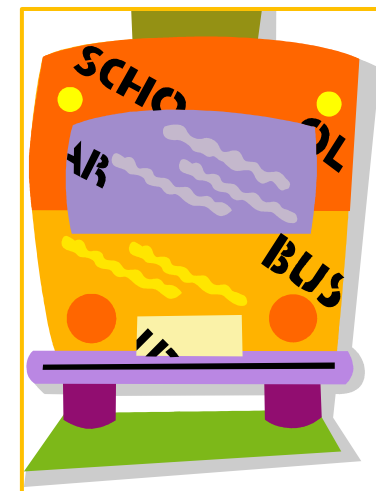
**NOTE:** The homeless child or youth shall be immediately enrolled in the school where enrollment is sought during the time such dispute is being considered.

## For School Use

Date McKinney-Vento Dispute Resolution form was received by District Homeless Liaison.

Date: \_\_\_\_\_

**NOTE:** The district's written response and explanation of the decision regarding any dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth or an unaccompanied homeless youth must be given within thirty (30) calendar days of the time such complaint or dispute is brought. (NDE Rule 19, Section 005.02)





# Dispute Resolution Process

- NDE staff will be reviewing each school district's Dispute Resolution process to ensure it meets the standards set out in NDE Rule 19, Sections 005.01 – 005.03C.







# NDE Rule 19

- 005 Enrollment of homeless children and youths
- 005.01 General Requirements. A district shall follow all requirements for the education of the homeless under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et. seq., including, but not limited to, the provision of comparable services to homeless children or youths enrolled, the designation of local agency education (district) homeless liaison, notification to the parents or guardians of homeless children and youth of the educational rights and opportunities available under law, and a district dispute resolution process for disputes regarding the educational placement of homeless children and youths.
- 005.02 Dispute Resolution Process. The district's dispute resolution process referred to in Section 005.01 shall provide for (a) the district's written response and explanation of a decision regarding any complaint or dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth within thirty (30) calendar days of the time such complaint or dispute is brought; (b) the enrollment of the homeless child or youth in the school where enrollment is sought during the time such dispute is being considered; and (c) notice of the right appeal as provided in Section 005.03 below.
- 005.03 Appeals. Any parent, guardian or other person having legal or actual charge or control of a homeless child or youth that is dissatisfied with the decision of a school district after the dispute resolution process may file an appeal with the Commissioner within thirty (30) calendar days of receipt of the decision. Such appeals are informal and shall be submitted to the Commissioner in writing stating the basis of the disagreement, and shall also include a copy of the district's written response and explanation of its decision as required in Section 005.02. The district shall be supplied a copy of the written appeal by the Commissioner or designee and the district(s) may file a written response thereto within fifteen (15) calendar days of receipt of it. If either party requests a hearing, an informal hearing will be scheduled by the Commissioner or designee within thirty (30) calendar days after the expiration of the time by which the district is to respond. If no hearing is requested, the Commissioner shall decide the matter based on the submissions of the parties, and may also request further written information and clarification from the parties. The Commissioner or designee shall issue a written decision determining whether or not the provisions of the McKinney-Vento Act have been followed.
- 005.03C A party may appeal the decision of the Commissioner or designee by filing a Petition with the State Board of Education within thirty (30) calendar days of the receipt of the decision. Such appeal shall be governed by 92 NAC 61, and shall also determine whether or not the provisions of the McKinney-Vento Act have been followed.



# Dispute Resolution

- ✓ Child or youth will be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute.
- ✓ Local educational agency liaison will assist unaccompanied youth, parent or guardian in carrying out the dispute resolution process.
- ✓ District process provides for a written response, including explanation, within 30 calendar days of the time the complaint or dispute is brought.
- ✓ District process contains notice of the Right to Appeal to NDE Commissioner in writing within 30 calendar days as provided in NDE Rule 19.
- ✓ District has a **form** containing the district's written response and explanation of their decision regarding the dispute which also includes the Right to Appeal as provided in NDE Rule 19.





## SAMPLE - DISPUTE RESOLUTION PROCESS

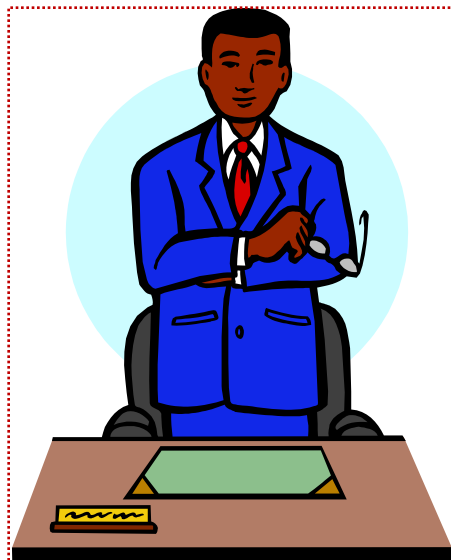
### Dispute Resolution Process

The process to resolve disputes concerning the enrollment or placement of a child or youth experiencing homelessness is as follows:

- a. The District will provide a written response and explanation of a decision regarding any complaint or dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth within thirty (30) calendar days of the time such complaint or dispute is brought. In the case of an unaccompanied youth, the District liaison will ensure that the homeless youth is enrolled immediately in the school in which enrollment is sought pending resolution of the dispute and provides notice to such youth of the right to appeal.
- b. The District will ensure the immediate enrollment of the homeless child or youth in the school in which enrollment is sought pending resolution of the dispute.
- c. The District's written response will include a notice of the right to appeal. Refer to NDE, Rule 19, Section 005.03.  
[http://www.education.ne.gov/legal/webrulespdf/Clean19\\_2010.pdf](http://www.education.ne.gov/legal/webrulespdf/Clean19_2010.pdf)

### Right to Appeal

- a. Any parent, guardian or other person having legal or actual charge or control of a homeless child or youth or an unaccompanied youth that is dissatisfied with the decision of the District after the dispute resolution process may file a written appeal with the Nebraska Commissioner of Education within thirty (30) calendar days of receipt of the decision. Refer to NDE, Rule 19, Section 005.03 for further details.  
[http://www.education.ne.gov/legal/webrulespdf/Clean19\\_2010.pdf](http://www.education.ne.gov/legal/webrulespdf/Clean19_2010.pdf)
- b. A party may appeal the decision of the Commissioner or designee by filing a Petition with the State Board of Education within thirty (30) calendar days of the receipt of the decision. Refer to NDE, Rule 19, Section 005.03C for further details.  
[http://www.education.ne.gov/legal/webrulespdf/Clean19\\_2010.pdf](http://www.education.ne.gov/legal/webrulespdf/Clean19_2010.pdf)



## SAMPLE MCKINNEY-VENTO DISPUTE RESOLUTION WRITTEN RESPONSE AND RIGHT TO APPEAL NOTIFICATION

### Determination of District

**NOTE:** The homeless child or youth shall be immediately enrolled in the school where enrollment is sought during the time such dispute is being considered.

In compliance with the McKinney-Vento Homeless Assistance Act, the following written notification and determination of the District was given to (see below) within 30 calendar days of the time such dispute was brought:

Signature of any parent, guardian or other person having legal or actual charge or control of a homeless child or youth: \_\_\_\_\_

Signature of Unaccompanied Homeless Youth: \_\_\_\_\_

Date: \_\_\_\_\_

After reviewing the information relevant to the dispute the District's determination and explanation for this determination is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Administrator's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Notice of Right to Appeal

If you are not satisfied with the determination on this dispute, you have the right to appeal as provided for in Nebraska Department of Education Rule 19, Sections 005.03 and 005.03C available on the Nebraska Department of Education website at:  
[www.education.ne.gov/legal/webrulespdf/Clean19\\_2010.pdf](http://www.education.ne.gov/legal/webrulespdf/Clean19_2010.pdf).

The appeal is to be filed with the Commissioner of Education within 30 calendar days of receipt of this decision.

For information about the right to appeal contact:

District's Homeless Liaison (contact information): \_\_\_\_\_

or contact

Nebraska Department of Education Homeless Education Coordinator

Telephone: 402-471-2481



# School Policies and Homeless Students

- School districts must review, revise, and if necessary, develop policies to remove barriers to the immediate enrollment and regular attendance in school, of children and youth in homeless situations.
- School districts must have a Dispute Resolution Process that has the steps set out in NDE Rule 19.
- NDE staff will check on this during the monitoring process.



# 2014-15 Monitoring Guide Checklist

## —Homeless Children—

1. The school has developed procedures/ guidelines for identifying and enrolling homeless children and youth. Policy provides a free, appropriate public education and access to the same services offered to other children.

§ 722(g)(1)(I)(J)

✓ District Homeless Policy

2. Homeless children and youth are enrolled in their school of origin or in the school where they are temporarily residing, whichever is in their best interest. The placement complies, to the extent feasible, with the request of the parent or guardian. Transportation to the school of origin is provided, when feasible.

§ 722(g)(1)(J)(iii)(I)

✓ District Homeless Policy  
✓ Process for determining transportation needs and timeline for implementation  
✓ Transportation Log

3. Lack of school records, immunization and medical records, birth certificate, or other documentation does not delay the enrollment of a homeless child or youth. Guardianship issues, uniform or dress code requirements, and residency requirements are not used as obstacles to delay or deny enrollment.

§ 722(g)(1)(H)(i-v)

✓ District Homeless Policy



4. A dispute resolution process is in place and the parent, guardian, or unaccompanied youth is informed of the Right to Appeal disputed decisions made by the school district, to the Commissioner of the Nebraska Department of Education.

A party may appeal the decision of the Commissioner by filing a Petition with the State Board of Education (see NDE Rule 19, § 005.03C).

- ☐ Child or youth will be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute
- ☐ Local education agency liaison will assist unaccompanied homeless youth, parent, or guardian in carrying out the dispute resolution process.
- ☐ District will provide written response, including explanation, within 30 calendar days of the time the complaint or dispute is brought.
- ☐ Process contains notice of the Right to Appeal in writing to NDE Commissioner within 30 calendar days as provided in NDE Rule 19.
- ☐ District has a form containing the district's written response and explanation of their decision regarding the dispute which also includes the Right to Appeal as provided in NDE Rule 19, §005.03.

§ 722(g)(3)(E)(i-iv)

- ✓ Written District Homeless Dispute Resolution Process
- ✓ ALL elements listed in the left-hand column are REQUIRED to be included in the Homeless Dispute Resolution Process
- ✓ District's written response and right to appeal form/s

Sample forms are available on the NDE Homeless website:

<http://www.education.ne.gov/federalprograms/Title%20X.html>



# NDE Homeless Liaison

Cathy Mohnike

402-471-1419

[cathy.mohnike@nebraska.gov](mailto:cathy.mohnike@nebraska.gov)

Or contact

Nebraska Department of Education  
Federal Programs Office

402-471-2481

or

Nebraska Department of Education  
Front Desk

402-471-2295

